

HOUSE BILL 7011
By Dunn

AN ACT to amend Tennessee Code Annotated, Title 2;
Title 3; Title 4; Title 8 and Section 39-16-103,
relative to enacting the "Ethics Reform Act of
2006".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The title of this act is, and may be cited as the "Ethics Reform Act of 2006".

SECTION 2. Tennessee Code Annotated, Section 2-10-105, is amended by deleting the section in its entirety and by substituting instead the following new section:

§ 2-10-105.

(a) Each candidate for state public office and political campaign committee in a state election shall file with the registry of election finance a statement of all contributions received and all expenditures made by or on behalf of such candidate or such committee. The statement of each candidate for state public office shall include the date of the receipt of each contribution and the statement of a political campaign committee in a state election shall include the date of each expenditure which is a contribution to a candidate in any election.

(b) Each candidate for local public office and political campaign committee for a local election shall file with each county election commission of the county where the election is held a statement of all contributions received and all expenditures made by or on behalf of such candidate or such committee. The statement of each candidate for local public office shall include the date of the receipt of each contribution and the statement of a political campaign committee for a local election shall include the date of each expenditure which is a contribution to a candidate in any election.

(c)

(1) The statements required by subsections (a) and (b) of each candidate, each single candidate political campaign committee, single measure political campaign or multicandidate political campaign committee shall be filed quarterly during an election year, no later than the tenth day of January, April, July and October respectively. Such candidate and political campaign committees shall also be required to file a pre-primary statement and pre-general statement. The pre-primary statement shall cover the period from the last day included in the July quarterly statement through the tenth day before the primary election. Such pre-primary statement is due seven (7) days before the primary election. The pre-general statement shall cover the period from the last day included in the October quarterly statement through the tenth day before the general election. Such pre-general statement is due seven (7) days before the general election;

(2) Statements for any runoff election, from the last day included in any prior report through the tenth day before any such election shall be filed not later than seven (7) days before the election;

(3) Any candidate or political campaign committee filing a statement pursuant to subsection (e) before January 1 of the year in which the candidate or committee expects to be involved in an election shall file reports with the registry of election finance or the county election commission, whichever is required by subsections (a) and (b), by January 31 and July 15 immediately succeeding the filing, and semi-annually thereafter until the year of the election. If January 31 or July 15 falls on a Saturday, a Sunday, or a legal holiday, the provisions of § 1-3-102 shall apply. The ending date of the January 31 reporting period is December 31. The ending date of the July 15 reporting period is June 30. A semi-annual

report is not required to be made if the reporting date is within sixty (60) days of a report otherwise required by this part.

(4) Each statement required by subsections (a) and (b) shall include transactions occurring since the preceding statement.

(d) Each multicandidate political campaign committee shall file reports according to subsection (c)(1). Each report shall include transactions occurring since the preceding report. Such reports shall be made available on the Internet as soon as practicable once such multicandidate political campaign committee has filed such information and the registry has reviewed such statements for accuracy and timeliness. If a multicandidate political campaign committee has not timely filed a quarterly report, then the registry shall post on the Internet that the multicandidate political campaign committee is delinquent.

(e)

(1) Each candidate and each political campaign committee shall certify the name and address of the candidate's or committee's political treasurer to the registry of election finance or the county election commission, where appropriate, before the candidate or committee may receive a contribution or make an expenditure in a state or local election. A state public officeholder shall also certify the name and address of such officeholder's political treasurer to the registry of election finance before the officeholder or the officeholder's political committee may accept a contribution to defray the expenses incurred in connection with the performance of the officeholder's duties or responsibilities, and a local officeholder shall so certify the name and address of such officeholder's treasurer to the appropriate county election commission. A candidate may serve as that candidate's own political treasurer. A candidate or

political campaign committee shall notify the registry of election finance or county election commission of any changes in the office of its political treasurer. Any such statements filed pursuant to this part shall be cosigned by the candidate, if such candidate appoints a political treasurer other than the candidate.

(2) In addition to the requirements in subdivision (1), a multicandidate political campaign committee shall also certify the name and address of all officers of such committee to the registry of election finance. A multicandidate political campaign committee is required to have at least one (1) officer, not including the treasurer of such committee.

(f) All records used by the candidate or political campaign committee to complete a statement required by this part shall be retained by the candidate or political campaign committee for at least two (2) years after the date of the election to which the records refer or the date of the statement, whichever is later. After the two-year period the candidate or political campaign committee is authorized to destroy such records absent any pending investigation by the registry of election finance or any other law enforcement agency or absent any administrative or court proceeding. Once an investigation is closed by the registry of election finance, records may be destroyed upon a petition for approval to the registry of election finance.

(g) Separate reporting shall be required for both primary elections and general elections. Cumulative reporting for both primary and general elections for the same office in the same year is expressly prohibited. An appointment of a political treasurer pursuant to subsection (e) may be cumulative, and one (1) such appointment shall be sufficient for both a primary and general election for the same office in the same year. A successful primary candidate shall not be required to certify a political treasurer for the

general election if the candidate had previously certified such political treasurer prior to the primary election.

(h) During the period beginning at twelve o'clock (12:00) midnight of the tenth day prior to a primary, general, runoff or special election or a referendum and extending through twelve o'clock (12:00) midnight of such election or referendum day, each candidate or political campaign committee shall by telegram, facsimile machine, hand delivery or overnight mail delivery file a report with the registry of election finance or the county election commission, whichever is required by subsections (a) and (b) of:

(1)

(A) The full name and address of each person from whom the candidate or committee has received and accepted a contribution, loan or transfer of funds during such period and the date of the receipt of each contribution in excess of the following amounts: a committee participating in the election of a candidate for any state public office, five thousand dollars (\$5,000); or, a committee participating in the election of a candidate for any local public office, two thousand five hundred dollars (\$2,500). If the committee is participating in the election of candidates for offices with different reporting amounts, the amount shall be the lowest for any candidate in whose election the committee is participating or in which any committee is participating to which it makes or from which it receives a transfer of funds; and

(B) Such report shall include the amount and date of each such contribution or loan reported, and a brief description and valuation of each in-kind contribution. If a loan is reported, the report shall contain the name and address of the lender, of the recipient of the proceeds of the

loan, and of any person who makes any type of security agreement binding such person or such person's property, directly or indirectly, for the repayment of all or any part of the loan.

(2) Each report required by this subsection (h) shall be filed within twenty-four (24) hours after the time the contribution or loan is received. If such time falls other than during regular working hours, the report shall be filed after the opening of the office of the registry of election finance or the county election commission, whichever is required by subsections (a) and (b), on the next working day after the time at which the report is otherwise due.

(3) The registry shall develop appropriate forms for the report required by this subsection (h) and make such forms available to the candidates and the county election commissions.

(i) Any state or local political party or caucus of such political party established by members of either house of the general assembly that controls or operates one (1) or more political campaign committees shall report all receipts and disbursements by the party in the same manner and at the same time that it reports contributions and expenditures by the party's political campaign committee.

(j) Reports filed under this section shall not be cumulative, except as provided in subsection (g) regarding appointment of a political treasurer. Each report shall reflect the total for its own reporting period.

(k) "Date of the receipt", as used in this section, means the date when the contribution was received by the candidate, candidate's committee, or treasurer.

SECTION 3. Tennessee Code Annotated, Title 3, Chapter 6, is amended by deleting Part 1 in its entirety and by substituting instead the following language as a new, appropriately designated part:

§ 3-6-101.

Parts 1 - 2 of chapter 6 shall be known and may be cited as the "Tennessee Ethics Commission Act of 2006."

§ 3-6-102.

It is the intent of the general assembly that the integrity of the processes of government be secured and protected from abuse. The general assembly recognizes that a public office is a public trust and that the citizens of Tennessee are entitled to a responsive, accountable, and incorruptible government. The Tennessee ethics commission is established to sustain the public's confidence in government by increasing the integrity and transparency of state and local government through regulation of lobbying activities, financial disclosure requirements, and ethical conduct.

§ 3-6-103.

(a) There is created as an independent entity of state government a Tennessee ethics commission. The commission shall be composed of six (6) members appointed as provided in this section. Appointments shall be made to reflect the broadest possible representation of Tennessee citizens. Of the six (6) members appointed at least one (1) shall be a female member and one (1) shall be an African-American member. However, an African-American female member shall not satisfy the requirement of one (1) female member and one (1) African-American member. Each member shall:

- (1) Have been a legal resident of this state for five (5) years immediately preceding selection;
- (2) Be at least thirty (30) years of age;
- (3) Be a registered voter in Tennessee;
- (4) Be a person of high ethical standards who has an active interest in promoting ethics in government;

(5) Not have been convicted of a felony.

No person shall be appointed to the commission if such person, or any member of such person's immediate family as defined in § 3-6-301, is announced as a candidate for public office, holds public office, or is a member of a political party's state executive committee.

(b)

(1) For administrative purposes, the Tennessee ethics commission shall be attached to the department of state for all administrative matters relating to receipts, disbursements, expense accounts, budget, audit, and other related items. The autonomy of the commission and its authority are not affected by this subsection and the secretary of state shall have no administrative or supervisory control over the commission.

(2) No person performing staff duties for the Tennessee ethics commission including the executive director, or any member of such person's immediate family as defined in § 3-6-301, shall, during the period of such employment:

(A) Be allowed to hold or qualify for elective office to any state or local public office as defined in § 2-10-102;

(B) Be an officer of any political party or political committee;

(C) Permit such person's name to be used or make contributions in support of or in opposition to any candidate or proposition;

(D) Participate in any way in any election campaign; or

(E) Lobby or employ a lobbyist; provided, that this provision on lobbying shall not prohibit the executive director from the performance of the executive director's duties.

(c) The members of the Tennessee ethics commission shall be selected as follows:

(1)

(A) The governor shall appoint one (1) member who is a member of the majority party and one (1) member who is a member of the minority party.

(B) The speaker of the senate shall appoint one (1) candidate from a list of three (3) candidates submitted by the majority caucus of the senate and one (1) candidate from a list of three (3) candidates submitted by the minority caucus of the senate. The speaker of the senate may request a second list of candidates; however, no candidate from the original list of candidates may appear on the second list of candidates.

(C) The speaker of the house shall appoint one (1) candidate from a list of three (3) candidates submitted by the majority caucus of the house and one (1) candidate from a list of three (3) candidates submitted by the minority caucus of the house. The speaker of the house of representatives may request a second list of candidates; however, no candidate from the original list of candidates may appear on the second list of candidates.

(2) Each gubernatorial appointee shall be subject to confirmation by a two-thirds (2/3) vote of approval by each house of the general assembly and each legislative appointee shall be subject to confirmation by a two-thirds (2/3) vote of approval by the appointing authority's house. If the general assembly is in session when an appointment is made, then the appointment shall be subject to confirmation within thirty (30) days of such appointment. If the general assembly is not in session when an appointment is made, the appointment shall be subject to confirmation within thirty (30) days after the general assembly next convenes following such appointment. If an appointee is refused confirmation, or is not confirmed during such thirty (30) day period, then the appointing authority of such appointee shall select another appointee for confirmation subject to the requirements of this section. Vacancies shall be filled in the same manner as the vacating member's office was originally filled.

(d) The initial members' terms of office shall commence upon appointment. For purposes of calculating the terms of such members' offices, such appointments shall be deemed to be made on January 1, 2007. The initial members' terms shall be staggered as follows:

(1) The gubernatorial appointees shall serve initial terms of two (2) years;

(2) The senate appointees shall serve initial terms of three (3) years; and

(3) The house appointees shall serve initial terms of four (4) years.

Thereafter, members of the commission shall serve four-year terms and are eligible to serve two (2) four-year terms in succession.

(e) The initial chair of the commission shall be appointed by the governor. Every year thereafter the commission shall elect a chair from among its membership. The chair shall serve in that capacity for one (1) year and shall be eligible for reelection. The chair shall preside at all meetings and shall have all the powers and privileges of the other members.

(f) The commission shall fix the place and time of its regular meetings by order duly recorded in its minutes. Four (4) members of the commission shall constitute a quorum. Except as provided in § 3-6-201, four (4) affirmative votes are required for any commission action. Special meetings shall be called by the chair on the chair's initiative or upon the written request of three (3) members. Members shall receive written notice three (3) days in advance of a special meeting. Such notice shall be served personally or left at a member's usual place of residence and shall specify the purpose, time and place of the meeting. No matters unrelated to the specified purpose may be considered without a specific waiver by all members of the commission.

(g) The members of the commission shall receive no compensation; provided, that each member of the commission shall be eligible for reimbursement of expenses and mileage in accordance with the regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(h) No member of the commission or such member's immediate family, as defined in § 3-6-301, shall during such membership:

(1) Be allowed to hold or qualify for elective office to any state or local public office, as defined in § 2-10-102;

(2) Be an employee of the state or any political subdivision of the state;

(3) Be an officer of any political party or political committee;

(4) Permit such person's name to be used or make campaign contributions in support of or in opposition to any candidate or proposition, except that a member's immediate family may make campaign contributions in support of or in opposition to any candidate or proposition;

(5) Participate in any way in any election campaign; or

(6) Lobby or employ a lobbyist.

(i) The prohibitions of subsection (h) shall not prohibit any incumbent member of the commission from seeking votes for confirmation of his or her appointment to the commission.

(j)

(1) The provisions of subsection (h), except subdivision (h)(2), shall be applicable for one (1) year subsequent to the removal, vacancy or termination of the term of office of a member of the commission; provided, that such one-year prohibition with respect to subdivision (h)(1) shall not apply to a member of the commission who resigns from the commission and, after resignation, the member or such member's immediate family, as defined in § 3-6-301, qualifies as a candidate for elective office to any state or local public office, nor shall such prohibition apply to making contributions to or participating in the candidate's own

campaign for such election, if the resignation occurs either prior to the qualifying deadline for such election or prior to certifying to the commission the name and address of the candidate's or committee's political treasurer for such election pursuant to §2-10-105(e), whichever is earlier.

(2) A member of the commission or any of such member's immediate family, as defined in § 3-6-301, may not be appointed or hired by an official over whom the commission has jurisdiction for one (1) year subsequent to the removal, vacancy or termination of the term of office of such member.

(3) Notwithstanding the provisions this section, during that one-year period specified in subdivision (j)(1), a former member of the commission or such former member's immediate family, as defined in § 3-6-301, may support a candidate or the committee of a candidate for a federal election in any way permitted by law, including financial support.

(k) Unless otherwise provided by law, any member of the commission who violates the oath of office for such position or participates in any of the activities prohibited by this chapter commits a Class A misdemeanor, and such violation or participation shall be a ground for removal from office.

§ 3-6-104.

(a) The Tennessee ethics commission shall appoint a full-time executive director who shall serve at the pleasure of the commission. Other staff shall be employed on recommendation of the executive director with the approval of the commission. The commission may call on the department of state for such advice, documents or services as it may require.

(b) Employees of the commission shall not have career service status, but such employees shall be subject to personnel policies applicable to state employees generally, such as leave, compensation, classification and travel requests.

§ 3-6-105.

(a) The Tennessee ethics commission is vested with jurisdiction to administer and enforce the provisions of this chapter, §§ 2-10-122 – 2-10-129, and the "Conflict of Interest Disclosure Law," compiled in title 8, chapter 50, part 5.

(b) In addition to the jurisdiction vested in subsection (a), with respect to members of the general assembly, the commission also has jurisdiction to investigate, in accordance with § 3-6-203, complaints alleging acts by a member of the general assembly that constitute misuse of office for personal financial gain; provided however, if a member of the general assembly makes the declaration required by § 2-10-127(d), then such member shall not be deemed to have misused his or her office for personal financial gain based solely upon the member's relationship to a sibling, spouse or child who lobbied for or against the legislative action.

(c) The ethics committee in each house is authorized to refer to the commission for investigation in accordance with § 3-6-203 any complaint it receives alleging a violation of the provisions of this chapter; §§ 2-10-122 – 2-10-129, the "Conflict of Interest Disclosure Law," compiled in title 8, chapter 50, part 5; or misuse of legislative office for personal financial gain.

(d) The governor is authorized to refer to the commission for investigation in accordance with § 3-6-203 any allegation the governor receives concerning a violation by an officer or staff member of the executive branch subject to the jurisdiction of the commission pursuant to the provisions of this chapter; §§ 2-10-122 – 2-10-129, the

"Conflict of Interest Disclosure Law," compiled in title 8, chapter 50, part 5; an executive order related to ethics, or misuse of office for personal financial gain.

(e) The commission shall refer to the registry of election finance for investigation and appropriate action any complaint filed with the commission that is within the jurisdiction of the registry.

(f) The commission is vested with jurisdiction over any violation of the laws administered and enforced by the commission or any alleged violation referred to the commission pursuant to this section that occurs within five (5) years prior to the filing of a complaint alleging such violation.

§ 3-6-106.

(a) The duties of the Tennessee ethics commission include the following:

(1) Recommend guiding principles of ethical conduct for consideration and adoption by the legislative or executive branches. The commission shall publish such principles on the commission's web site. Guiding principles of ethical conduct may be recommended for each of the following classifications:

(A) Members of the general assembly;

(B) The governor, secretary of state, treasurer, comptroller of the treasury, members of the governor's cabinet, and cabinet level staff within the governor's office; and

(C) Employers of lobbyists and lobbyists;

(2) Develop prescribed forms for complaints, registrations, statements and other documents that are required to be filed under the laws administered and enforced by the commission with the objective of making the documents as simple and understandable as possible for both the person filing the document and the average citizen of the state of Tennessee;

(3) Develop filing, coding and cross-indexing systems;

(4) Make as many documents filed available for viewing on the Internet as is reasonable based on the commission's financial resources and make each document filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of the same; provided, that this subsection does not apply to those documents required to be confidential pursuant to § 3-6-202;

(5) Review all filed documents to ensure compliance with the laws administered and enforced by the commission. Statements filed with the commission for more than two (2) years shall be deemed to be sufficient absent a showing of fraud or the existence of an ongoing investigation related to such statement;

(6) Accept and file any information voluntarily supplied that exceeds the requirements of this chapter;

(7) Prepare and publish on the commission's web site reports as are deemed to be appropriate and in the public interest by the commission, including quarterly reports listing all registered employers of lobbyists and lobbyists, as defined in part 3 of this chapter, alphabetically;

(8) Prepare and publish manuals and guides to facilitate compliance with, and enforcement of, the laws administered and enforced by the commission;

(9) Administer ethics training as provided in this part;

(10) Provide an annual report to the governor and the general assembly by February 1 concerning the administration and enforcement of laws under the jurisdiction of the commission, including the necessity, or lack of necessity, for

any additional action or additional legislation that will serve to further the purposes of this chapter;

(11) Investigate any alleged violation upon sworn complaint or upon its own motion as provided in § 3-6-201; and

(12) Preserve all filed reports or statements for a period of at least five (5) years from the date of receipt, or longer when there is a pending investigation by the commission or any law enforcement agency or when there is an ongoing administrative or judicial proceeding related to such information.

(b) It is the duty of the attorney general and reporter to render opinions and give counsel to the commission upon the request of the executive director or the commission.

§ 3-6-107.

The Tennessee ethics commission possesses power to:

(1) Promulgate such rules and regulations pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, as are necessary to implement the provisions of this chapter, §§ 2-10-122 – 2-10-129, and the "Conflict of Interest Disclosure Law," compiled in title 8, chapter 50, part 5;

(2) Subpoena witnesses, compel their attendance and testimony, conduct audits, administer oaths, take evidence and require by subpoena duces tecum the production of books, papers, records or other evidence needed for the performance of the commission's duties or exercise of its powers, including its duties and powers of investigation;

(3) Issue written advisory opinions to any person subject to the jurisdiction of the commission. With respect to an issue addressed in an advisory opinion, any person who conforms such person's behavior to the requirements of the advisory opinion may rely upon such opinion without threat of sanction;

- (4) Request legal and investigative assistance from the office of the attorney general and reporter;
- (5) Conduct a hearing to determine if an actual violation has occurred;
- (6) Issue an appropriate order following such a determination;
- (7) Assess and collect late filing fees in amounts provided by statute;
- (8) Assess and collect a civil penalty as provided in this chapter, the "Conflict of Interest Disclosure Law," compiled in title 8, chapter 50, part 5, and rules promulgated pursuant to this chapter and the Conflict of Interest Disclosure Law; provided, that the commission shall only have the power to assess a civil penalty after notice and opportunity for hearing; and
- (9) Seek injunctive relief in the chancery court of Davidson County to prevent continuing violations of this chapter.

§ 3-6-108.

For the purposes of enforcement, this chapter shall be prospective only, and the Tennessee ethics commission shall limit its investigations to acts or omissions which occur after October 1, 2006.

§ 3-6-109.

Where the results of an investigation indicate a criminal violation has occurred, the commission shall refer the matter to the appropriate law enforcement agency.

§ 3-6-110.

The Tennessee ethics commission has the authority to petition the chancery court through the attorney general and reporter or its own legal counsel for enforcement of any order it has issued. The court's order of enforcement has the same force and effect as a civil judgment.

§ 3-6-111.

All fees collected by the Tennessee ethics commission pursuant to the provisions of this chapter shall be deposited by the state treasurer in a separate account exclusively for the ethics commission and shall be used by the ethics commission to defray expenses necessary to administer the provisions of this chapter, including the payment of salaries to employees, the purchase of supplies, and any other necessary expenses. Unexpended and unobligated fees remaining in such account at the end of any fiscal year shall not revert to the general fund but shall remain available for use by the commission. Penalties imposed by the ethics commission shall be deposited into the state general fund.

§ 3-6-112.

(a) The Tennessee ethics commission shall provide an annual ethics course concerning compliance with the laws administered and enforced by the commission for supervisory personnel in the executive branch of state government. The commission shall notify administrative departments and divisions in advance of the time and location of the course. The course may be offered on multiple occasions in locations that will make attendance by personnel in the three (3) grand divisions reasonably convenient. The ethics course shall include, but not be limited to, discussion of relevant laws, administrative regulations, advisory opinions, current ethical issues and situations, and development of problem-solving skills.

(b) Administrative departments and divisions shall annually select appropriate supervisory personnel and shall communicate the name, position, and contact information of each individual required to attend the annual course to the commission prior to February 1.

§ 3-6-113.

(a) The Tennessee ethics commission shall provide an annual orientation ethics course concerning compliance with the laws administered and enforced by the commission for members of the general assembly who have not yet taken the orientation ethics course and shall offer an annual current issues course for members of the general assembly who have taken the orientation course. Such courses shall be offered on a date or dates when the general assembly is in session. The commission shall notify such members in advance of the time and location of the courses.

(1) The orientation ethics course shall include, but not be limited to, laws administered and enforced by the commission, administrative regulations, relevant internal policies, specific technical and legal requirements, summaries of advisory opinions, underlying purposes and principles of ethics laws, examples of practical application of ethics laws, and a question-and-answer participatory segment regarding common problems and situations.

(2) The current issues course shall include, but not be limited to, discussion of changes in relevant laws, administrative regulations, new advisory opinions, current ethical issues and situations, and development of problem-solving skills.

(b) Members of the general assembly shall attend the courses provided by the commission pursuant to subsection (a). However, a member may petition the commission to approve an ethics course other than a course offered by the commission to fulfill the current issues course requirement.

§ 3-6-114.

(a) The Tennessee ethics commission shall provide an annual ethics course on a date or dates when the general assembly is not in session for lobbyists and employers of lobbyists. Training shall include, but not be limited to, laws administered and enforced

by the commission, administrative regulations, relevant internal policies, specific technical and legal requirements, and summaries of advisory opinions. The commission shall impose a fee for attending the ethics course that will enable participation in the course to be funded from the fee.

(b) Each lobbyist shall attend one (1) ethics course annually. A lobbyist may petition the commission to approve an ethics course other than a course offered by the commission to fulfill the ethics course requirement.

§ 3-6-115.

(a) Notwithstanding any other provision of law to the contrary, the Tennessee ethics commission shall:

(1) Develop, with the advice, assistance and approval of the office of information resources, an Internet-based electronic filing process for use by all persons that are required to electronically register or file statements and reports with the commission pursuant to this chapter, §§ 2-10-122 – 2-10-129, and the “Conflict of Interest Disclosure Law”, compiled in title 8, chapter 50, part 5;

(2) Develop, with the advice, assistance and approval of the office of information resources, a system that provides each person required to register or file statements and reports with the commission secure access to the electronic registration and filing system. The system shall provide adequate safeguards to prevent unauthorized persons from inappropriately tampering with or changing the data and shall provide for secure authentication safeguards for documents such as electronic signatures and electronic notarization;

(3) Provide training to each person required to register or file statements and reports with the commission on the use of the electronic filing system;

(4) Make, with the advice, assistance and approval of the office of information resources, electronically filed reports and statements available for viewing on the commission's web site in a format that is searchable and that may be downloaded and managed by a user with appropriate software; provided that this subdivision does not apply to those documents required to be confidential pursuant to § 3-6-202. In addition to any other method of information management developed by the commission, conflict of interest disclosures shall be indexed and searchable by county;

(5) Beginning on October 1, 2006, with the advice, assistance and approval of the office of information resources, provide the public access to lists compiled from the registrations and other documents filed by employers of lobbyists, lobbyists, and persons required to file conflict of interest disclosures. In addition, the commission shall provide assistance to anyone seeking to access this information on the Internet.

(b) The commission, once the development of the electronic filing system is completed and tested, shall provide public notice that the system is operational and available for filers to commence use.

(c) The commission shall, with the advice, assistance and approval of the office of information resources, implement the electronic filing system for use by October 1, 2006. Any person required to electronically file statements and reports with the commission shall file required statements and reports electronically on or after October 1, 2006. Any required statements and reports filed with the registry of election finance prior to October 1, 2006 shall continue to be filed with the registry until such date.

(d) All information entered by any person required to file statements and reports electronically with the commission shall remain confidential until the information is submitted to the commission.

(e) The commission shall strive to establish electronic filing for all documents required to be filed with the commission.

(1) The commission, unless otherwise required by law to provide for electronic filing, shall have the discretion to determine when electronic filing is financially feasible and will be an accessible and efficient method of filing.

(2) The commission shall establish rules specifying the manner in which a report, statement or other documents shall be filed. Such rules shall be published and posted conspicuously on the commission's web site at least sixty (60) days prior to the due date of any document affected by such rules.

SECTION 4. Tennessee Code Annotated, Title 3, Chapter 6, is amended by adding the following language as a new, appropriately designated part:

§ 3-6-201.

(a)

(1) Any citizen of Tennessee may file a sworn complaint executed on a form prescribed by the Tennessee ethics commission alleging a violation of laws or rules within the jurisdiction of the commission;

(2) No political party chairman, state or county executive director of a political party, or employee or agent of a political party acting in his or her official capacity may file a complaint with the commission for a violation of laws or rules within the jurisdiction of the commission. Nothing in this section prohibits a private citizen, acting in such private capacity, from filing a sworn complaint with the commission under this section.

(b) A complaint filed under this section must set forth in simple, concise, and direct statements:

- (1) The name of the complainant;
- (2) The street or mailing address of the complainant;
- (3) The name of each alleged violator;
- (4) The position or title of each alleged violator;
- (5) A short and plain statement of the nature of the violation and the law or rule upon which the commission's jurisdiction over the violation depends;
- (6) A statement of the facts constituting the alleged violation and the dates on which, or period of time in which, the alleged violation occurred; and
- (7) All documents or other material available to the complainant that are relevant to the allegation; a list of all documents or other material within the knowledge of the complainant and available to the complainant that are relevant to the allegation but that are not in the possession of the complainant, including the location of the documents, if known; and a list of all documents or other material within the knowledge of the complainant that are unavailable to the complainant and that are relevant to the complaint, including the location of the documents, if known.

(c) The complaint must be accompanied by an affidavit stating that the information contained in the complaint is either correct or that the complainant has good reason to believe and does believe that the violation occurred. If the complaint is based on information and belief, the complaint shall state the source and basis of the information and belief. The complainant may swear to the facts by oath before a notary public.

(d) The commission may initiate a complaint upon an affirmative vote that includes three (3) members of the commission who are members of the same party or two (2) members of the commission who are members of different parties.

(e)

(1) Any complaint that is filed against a candidate in any election, as defined in § 2-10-102, during the period from thirty (30) days immediately prior to such election through election day shall be considered filed but not verified by the commission. The commission shall take no action relative to the complaint during such thirty (30) day period.

(2) During such thirty (30) day period, the commission shall stay any proceedings with regard to an ethics complaint filed against a candidate more than thirty (30) days prior to early voting for such election; provided that, the candidate may waive such postponement in writing.

(3) For purposes of this subsection, any provisions of this chapter setting time periods for initiating a complaint or for performing any other action are considered tolled until after the election at which the candidate stands for elective office.

(f) Within five (5) days after the filing of a complaint, the commission shall cause a copy of the complaint to be transmitted by return receipt requested mail to the person alleged to have committed the violation.

§ 3-6-202.

(a) The members and staff of the Tennessee ethics commission shall preserve the confidentiality of all commission proceedings, including records relating to a preliminary investigation. Such records shall be exempt from the Tennessee Public Records Act, compiled in title 10, chapter 7 and shall be confidential either until the

alleged violator requests in writing that such investigation and associated records and meetings be made public or until the commission determines that probable cause exists to believe that a violation has occurred. A member of the commission or a member of the commission staff may acknowledge receipt of a complaint or may disclose information to the extent necessary to successfully pursue an investigation. In no event shall such information against a candidate in any election, as defined in § 2-10-102, be disclosed during the period from thirty (30) days immediately preceding the commencement of early voting for such election through election day unless a candidate requests in writing the disclosure of such information.

(b) A member of the commission or member of the commission staff who knowingly discloses such information in violation of this section commits a Class C misdemeanor. A violation of this section also subjects such person to the civil penalties imposed by §3-6-205(a)(2). Violation of this section by a member of the commission shall be a ground for removal from office.

§ 3-6-203.

(a) The commission shall initiate a preliminary investigation of each sworn complaint that complies with § 3-6-201. If the commission determines that the sworn complaint does not comply with § 3-6-201, then the commission shall dismiss the complaint and notify the complainant. In the notification sent to the complainant, the commission shall state with particularity why the complaint does not comply with § 3-6-201. If the commission has referred the complaint to the registry of election finance, then the commission shall also notify the complainant of such referral.

(b) The commission shall refer a factually and legally sufficient complaint to the office of the attorney general and reporter who shall conduct a preliminary investigation. The commission shall make a probable cause determination after the office of the

attorney general and reporter completes its investigation and reports its findings to the commission. Both the alleged violator and the complainant shall be entitled, upon request, to present evidence before the commission prior to the commission's probable cause determination. The commission shall have notice that evidence will be presented to the commission personally served upon, or sent by return receipt requested mail, to the alleged violator and the complainant. The commission has discretion to determine the appropriate procedure for the presenting of such evidence.

(1) If the commission determines that no probable cause exists to believe a violation of any law or rule administered and enforced by the commission occurred, the commission shall dismiss the complaint by issuing a report to the complainant and the alleged violator, stating with particularity its reasons for dismissal of the complaint. A complainant may request a hearing upon a determination of no probable cause. If after such hearing the commission determines that there is no probable cause, the commission may order the complainant to reimburse the alleged violator for any reasonable costs and reasonable attorney fees the alleged violator has incurred. All records and proceedings of the commission related to the preliminary investigation shall become public record sixty (60) days after:

(A) The date the report of the commission's finding is issued, if the complainant does not request a probable cause hearing; or

(B) The date the commission issues its finding of no probable cause following a hearing requested by the complainant.

(2) If the commission determines that probable cause exists to believe a violation of any law or rule administered and enforced by the commission occurred, the commission shall conduct a public hearing and, if the alleged

violator is a member of the general assembly, shall notify the ethics committee of the appropriate house of such probable cause determination. Both the alleged violator and the complainant shall receive, by personal service or return receipt requested mail, notice of the time, date, and location of such hearing.

§ 3-6-204.

(a) The Tennessee ethics commission, on its own motion or at the request of the alleged violator, may issue subpoenas in accordance with the Tennessee Rules of Civil Procedure, except that service may be by certified mail in addition to means of service provided by the Tennessee Rules of Civil Procedure. Witnesses under subpoena shall be entitled to the same fees as are now or may hereafter be provided by law or by action of the commission. The party requesting the subpoenas shall bear the cost of paying the fees to the witnesses subpoenaed.

(b) A person who is aggrieved by a final disposition of the commission shall be entitled to judicial review.

(1) Proceedings for review shall be instituted by filing a petition for review in the chancery court of Davidson County, unless another court is specified by statute. Such petition shall be filed within sixty (60) days after the entry of the commission's final disposition thereon. Copies of the petition shall be served upon the commission, the complainant and all parties of record, including the attorney general and reporter, in accordance with the provisions of the Tennessee Rules of Civil Procedure pertaining to service of process.

(2) The provision of § 4-5-322 relating to judicial review of agency decisions shall apply to a petition of review filed pursuant to this section.

§ 3-6-205.

(a) The Tennessee ethics commission may impose a civil penalty for a violation of the "Conflict of Interest Disclosure Law", compiled in title 8, chapter 50, part 5.

(1) "Class 1 offense" means the late filing of any report or statement required by the "Conflict of Interest Disclosure Law", compiled in title 8, chapter 50, part 5. A Class 1 offense shall be punishable by a civil penalty of not more than twenty-five dollars (\$25.00) per day up to a maximum of seven hundred fifty dollars (\$750).

(A) The Tennessee ethics commission shall have personally served upon, or sent by return receipt requested mail, an assessment letter to any person required to file upon the commission's discovery that a due report has not been filed. A civil penalty of twenty-five dollars (\$25.00) per day shall begin to accrue five (5) days after personal service or receipt of the letter and will continue to accrue until the report is filed, or for thirty (30) days, whichever occurs first.

(B) To request a waiver, reduction or to in any way contest a penalty imposed by the Tennessee ethics commission for a Class 1 offense, a person shall file a petition with the commission.

(2) "Class 2 offense" means failing to file a report required by the "Conflict of Interest Disclosure Law", compiled in title 8, chapter 50, part 5 within thirty-five (35) days after service of process or receipt of notice by registered or certified mail of an assessment or any other violation of the requirements of the "Conflict of Interest Disclosure Law", compiled in title 8, chapter 50, part 5, except where another penalty is prescribed by law. A Class 2 offense is punishable by a maximum civil penalty of not more than ten thousand dollars (\$10,000).

(A) For any Class 2 offense, the Tennessee ethics commission shall send an assessment letter to a person required to file in a form sufficient to advise the person required to file of the factual basis of the violation, the maximum penalty and the date a response to the letter must be filed. If a disclosure report is returned to a person required to file for correction, a copy of the original shall be retained on file until the corrected report is returned to the Tennessee ethics commission. If the original filing was in compliance with the intent of the law and minor errors are corrected within the date set for a response, no penalty shall be assessed.

(B) To request a waiver, reduction or to in any way contest a penalty imposed by the Tennessee ethics commission for a Class 2 offense, a person shall file a petition with the commission.

(b) Any candidate for state public office who fails to file any statement or report required by title 8, chapter 50, part 5 shall be ineligible to qualify for election to any state public office until such statement or report is filed with the commission.

§ 3-6-206.

(a) The Tennessee ethics commission shall maintain a register of all civil penalties imposed under this chapter and remaining unpaid.

(b) If a civil penalty lawfully assessed and any lawfully assessed cost attendant thereto are not paid within thirty (30) days after the assessment becomes final, any candidate owing such civil penalty shall be ineligible to qualify for election to any state public office until such penalty and costs are paid.

(c) If a civil penalty authorized by this section is imposed, it shall be considered as a personal judgment against the person subject to the civil penalty.

§ 3-6-207.

Notwithstanding the provisions of § 3-6-203, if the commission determines that probable cause exists to believe that a member of the general assembly has committed an act constituting misuse of office for personal financial gain, then, except as otherwise provided in § 3-6-306(a)(3), no civil penalty shall be imposed and the commission shall instead report its determination and findings to the ethics committee of the appropriate house of the general assembly.

§ 3-6-208.

(a) If the commission determines that a person:

(1) Filed a complaint or provided information which resulted in an investigation knowing that the material statements in the complaint or the information provided were not true;

(2) Filed an unsubstantiated complaint in reckless disregard of the truth or falsity of the statements contained in the complaint; or

(3) Filed one (1) or more unsubstantiated complaints which constituted abuse of process,

then the complainant is subject to the civil penalties authorized by §3-6-205(a)(2) and may be liable for any reasonable costs and reasonable attorney fees the alleged violator has incurred. The commission may also decline to consider any further complaints brought by such complainant.

(b) The sanctions authorized by subsection (a) are not exclusive and do not preclude any other remedies or rights of action the alleged violator may have against the complainant or informant under the law; provided, that any person who in good faith files a verified complaint or any person, official, or agency who gives credible information

resulting in a formal complaint filed by the commission is immune from any civil liability that otherwise might result by reason of such actions.

SECTION 5. Tennessee Code Annotated, Sections 2-10-122 – 2-10-129, are amended by deleting the language “registry of election finance” wherever it may appear and by substituting instead the language “Tennessee ethics commission” and are further amended by deleting the language “registry” wherever it may appear and by substituting instead the language “commission”.

SECTION 6. For purposes of promulgation of rules and regulations, imposition of civil and other penalties, creation and publication of forms, acquisition or development of software programs and other necessary computer hardware, and organization and hiring of staff, the provisions of this act shall take effect upon becoming a law, the public welfare requiring it.

SECTIONS 1 through 2 shall take effect upon becoming law, the public welfare requiring it.

SECTION 3, for purposes of appointing the members of the ethics commission, shall take effect upon becoming law, the public welfare requiring it. SECTIONS 4 and 5 shall take effect October 1, 2006., the public welfare requiring it.